

## REMARKS

By this amendment: (1) the specification has been amended to cure typographical, spelling, grammatical and other errors such as lack of conformance in the language between one place and another; (2) claims 1, 2, 5, 6 and 9-13 have been amended to better define the invention and cure the indefiniteness to which the Examiner objected; and (3) new claims 14-16 have been added to better define the invention.

This application now includes claims 1-16. In view of the above amendments and the remarks hereinafter, it is respectfully requested that this application be reconsidered.

The rejection of claims 9, 10, 12 and 13 under 35 U.S.C. 112, second paragraph, as being indefinite is respectfully traversed as to the amended claims. Claims 9, 12 and 13 have been amended so they provide proper antecedents and claim 10 has been clarified in its language. The rejection of the specification for failing to provide proper antecedent basis for the claimed subject matter of claim 10 has been corrected by amendments to claim 10 that are more fairly based on the specification.

The rejection of claims 11 and 12 under 35 U.S.C. 102(b) as being anticipated by Crookham is respectfully traversed. Claim 11 recites "Apparatus for pulling two at least partly tubular sections" whereas Crookham only discloses one utility pole with a tubular end which is lifted to fit upon a solid base. The applicant understands the Examiner's argument that Crookham states other types of poles may be used but does not agree that statement meets a direct recitation in a claim of two tubular sections. In order to anticipate the claims, Crookham must do more than say other things can be used. It must disclose the limitation in the claim. Moreover, claim 11 recites "at least

one bracket whereby the sections may be pulled together” but Crookham never pulls two sections together. Instead, Crookham merely drops the utility pole upon a base and gravity pushes the end of the utility pole onto the concrete base. Moreover, Crookham does not disclose the moveable connecting member connected at one location on the movable connecting member to the piston rod and at any of a plurality of other locations on the movable connecting member to at least one bracket nor that the at least one bracket includes a means for fastening the bracket to a tubular section.

Similarly, claim 12, depends from claim 11 and includes all of the above limitations in addition to the cam surfaces for moving the gripping member. Accordingly, neither claim 11 nor claim 12 as they are now worded is anticipated by Crookham. New claim 14 depends upon claim 1 which recites pulling two tubular sections together which is not disclosed by Crookham plus other steps not disclosed in Crookham relating to the flexible member and thus, new claim 14 is not anticipated by Crookham. New claims 15 and 16 depend directly or indirectly from claim 1 which recites pulling of the sections of the pole together prior to erecting the pole. This recitation is not disclosed by Crookham. Crookham only discloses dropping a pole upon a base as part of the erection of the pole. Accordingly, none of the new claims are anticipated by Crookham.

The rejection of claims 1-8 under 35 U.S.C. 103(a) as being unpatentable over Crookham in view of McMullin and further in view of Thiermann is respectfully traversed. None of these patents pull the sections of a pole together prior to erecting the pole. Each of them is only directed to erecting a pole.

The United States Patent and Trademark Office has the initial burden of showing obviousness. However, there is no disclosure of any apparatus for pulling the sections of a pole together prior to erecting the pole in any of the references relied upon by the Examiner.

Accordingly, the Examiner has not established a *prima facie* case of obviousness under 35 U.S.C. 103(a). Unless the Examiner can provide a *prima facie* case, the applicant need do nothing further to establish patentability of these claims.

New claims 14-16 all depend directly or indirectly from one of the claims 1-8 and define patentably over the cited references for the same reasons.

The rejection of claims 9 and 10 under 35 U.S.C. 103(a) as being unpatentable over Thiermann is respectfully traversed. Perhaps the Examiner has the wrong citation because column 2, lines 23-31 of Thiermann do not refer to tubular sections or bringing them to a site, nor does column 1, lines 55-60 refer to a sectional pole. Only one unsectioned pole "P" is shown or described in Thiermann and Thiermann discloses erecting it, not assembling it. Accordingly, Thiermann does not establish a *prima facie* case under 35 U.S.C. 103(a) and claims 9 and 10 are patentable in view of Thiermann.

The rejection of claim 13 under 35 U.S.C. 103(a) as unpatentable over Crookham is similarly traversed. Crookham does not disclose pulling tubular sections together before erecting them as described above. Without this suggestion, it would not have been obvious for a person of ordinary skill in the art to utilize the apparatus for pulling the two sections together covered by claim 13. Crookham as it is now described performs the function that Crookham is intended to perform of erecting a pole. Why would a person of ordinary skill in the art change it so that it performs some different function not suggested anywhere in the reference? Incidentally, the Examiner is incorrect in stating that the applicant has not described a function for adjusting the length of the pulling member. The length of the pulling member enables the piston by repeating the same short steps to pull the two sections of the pole together. Obviously, after the two sections have been pulled one

short increment, unless that connecting member is changed in length, it will not pull it the second length with the second reciprocation of the piston. This entire function is clearly described in the specification.

If the applicant is correct in that the Examiner has cited the wrong reference and was reading a different reference other than Thiermann, it is respectfully requested that the Examiner inform the applicant of the other reference and give the applicant an opportunity to amend the claims if necessary and argue the rejection if necessary.

Since the claims in this application are proper under 35 U.S.C. 112 and patentable under U.S.C. 102 and 103, it is respectfully requested that they be passed to issue.

Respectfully submitted,

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--Our Ref: 902-1-1-1